

REMARKS/ARGUMENTS

Claim Rejections 35 U.S.C. 103

In rejecting claims under 35 U.S.C. § 103(a), the Examiner bears the initial burden of establishing a *prima facie* case of obviousness. *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992). *See also In re Piasecki*, 745 F.2d 1468, 1472 (Fed. Cir. 1984). It is incumbent upon the Examiner to establish a factual basis to support the legal conclusion of obviousness. *See In re Fine*, 837 F.2d, 1071, 1073 (Fed. Cir. 1988). In so doing, the examiner is expected to make the factual determinations set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 17 (1966), viz., (1) the scope and content of the prior art; (2) the differences between the prior art and the claims at issue; and (3) the level of ordinary skill in the art. Additionally, in making a rejection under 35 U.S.C. § 103(a) on the basis of obviousness, the Examiner must provide some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. *KSR Int'l. Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1741 (2007). Only if this initial burden is met does the burden of coming forward with evidence or argument shift to the appellant. *See Oetiker*, 977 F.2d at 1445. *See also Piasecki*, 745 F.2d at 1472. Obviousness is then determined on the basis of the evidence as a whole and the relative persuasiveness of the arguments. *See Oetiker*, 977 F.2d at 1445; *Piasecki*, 745 F.2d at 1472.

Claims 1-6, 9-15, 20-22, 23-24 and 27-28

The Examiner rejects claims 1-6, 9-15, 20-22, 23-24 and 27-28 under 35 U.S.C. 103(a) as being unpatentable over U.S. 5,761,193 (“Derango”) in view of U.S. 6,885,574 (“Grube”). In response, Applicant respectfully traverses the Examiner’s rejection, as there are differences between the claimed invention and the prior art, many of which the Examiner has not appreciated. Also, it is respectfully submitted that there is no valid reasoning in support of the obviousness rejection. Applicant’s reasoning is detailed below.

Differences between the claimed invention and the prior art

Claim 1 recites a user device that is configured to “obtain from the dispatch network a user-device specific set of at least one provisioned talk group identifier having a respective provisioned talkgroup identifier for each talkgroup provisioned for the user device” and “make

information pertaining to the at least one provisioned talkgroup identifier available to a user of the user device, the at least one provisioned talkgroup identifier being maintained by the dispatch network.” Thus, claim 1 defines a user device that provides information pertaining to provisioned talk group identifiers to a user of the user device. This serves to inform/remind the user of the talkgroups that have been provisioned for the user device. Applicant submits that the Examiner’s proposed combination of Derango and Grube fails to disclose this subject matter for reasons detailed below.

Derango teaches in column 3, lines 35-54 that “a site receives an affiliation message from a communication unit and forwards the affiliation message to a controller” and that “the affiliation message indicates that the talkgroup which the communication unit has currently selected (i.e. talkgroup that the unit is monitoring) is now also affiliated with the site.” Therefore, whilst the affiliation message concerns the talkgroup that the communication unit has selected, the affiliation message serves to inform the controller of the talkgroup that has been selected. Note that this is the opposite of Applicant’s claimed user device configured to “obtain from the dispatch network a user-device specific set of at least one provisioned talk group identifier having a respective provisioned talkgroup identifier for each talkgroup provisioned for the user device”.

Derango goes on to teach an example in the same passage and states that ‘the first communication unit 113 informs the first site 104 of its unit ID and that it has currently selected talkgroup “A”, as hereinafter assumed. This information is then forwarded to the controller 102.’ Again, this serves to inform the controller, which is the opposite of Applicant’s claimed user device. The signalling in Derango’s serves to inform the controller of the talkgroup that has been selected, and not to inform/remind the user of the talkgroups that have been provisioned for the user device.

Derango goes on to teach in column 5, line 6 through column 6, line 10 that “the multicast server will receive the packetized information via the inbound SVC corresponding to the talkgroup/site and copy the packetized information out to each site corresponding to the outbound SVC’s listed in the table for that talkgroup inbound SVC entry.” Therefore, whilst the packetized information might be copied out to each site, there is no teaching that the

communication unit receives the packetized information. There is no clear teaching of a dispatch network providing talkgroup IDs to a communication unit. Therefore, Derango fails to teach Applicant's claimed user device configured to "obtain from the dispatch network a user-device specific set of at least one provisioned talk group identifier having a respective provisioned talkgroup identifier for each talkgroup provisioned for the user device".

The Examiner concedes that "Derango does not explicitly show [a user device configured to] make information pertaining to the at least one provisioned talkgroup identifier available to a user of the user device, the at least one provisioned talkgroup identifier being maintained by the dispatch network." Applicant agrees with the Examiner.

The Examiner refers to Grube as disclosure for the aforementioned subject matter. However, Grube has nothing to do with this subject matter. Applicant's reasoning is detailed below.

Grube teaches in column 8, line 64 to column 9, line 25 that "upon receiving the announcement messages, the location information admitted therein is communicated to the subscribers via their respective operator interfaces (e.g. map displays, etc.)." Therefore, whilst Grube teaches that information can be displayed, this information is merely location information. Therefore, this fails to teach Applicant's claimed user device configured to "make information pertaining to the at least one provisioned talkgroup identifier available to a user of the user device, the at least one provisioned talkgroup identifier being maintained by the dispatch network".

Grube also teaches in the same passage that "In the case where the subscribers are members of a talkgroup, the de-subscription request may be embodied in a de-affiliation request for the talkgroup. Upon granting the de-subscription request(s), the GLSS controller de-registers the former subscribers and returns de-subscription acknowledgement message(s), as appropriate." However, there is no teaching that talkgroup IDs are displayed. Much like Derango, Grube is simply not concerned with informing/reminding the user of the talkgroups that have been provisioned for the user device.

In view of the foregoing, Applicant submits that there are clear differences between the claimed invention and the prior art, many of which the Examiner has not appreciated.

No valid reason to support obviousness rejection

The Examiner contends that “it would have been obvious to one of ordinary skill in the art at the time the invention was made to use, make information pertaining to the at least one provisioned talkgroup identifier available to a user of the user device, the at least one provisioned talkgroup identifier being maintained by the dispatch network, as taught by Grube, in order to provide a groups of communication units engaged in dispatch voice calls to participate in a location sharing service according to different service levels.”

However, there are clear differences between the claimed invention and the prior art, and the Examiner’s reasoning does not indicate how the person skilled in the art would overcome those differences. Moreover, even if the Examiner could articulate a reason that would address those differences, it is noted that “The gap between the prior art and the claimed invention may not be ‘so great’ as to render the [claim] non-obvious to one reasonably skilled in the art.” *Dann v. Johnston*, 425 U.S. 219, 230, 189 USPQ 257, 261 (1976). It is respectfully submitted that in this case the gap between Applicant’s claim 1 and the Examiner’s proposed combination of Derango and Grube is so great that claim 1 is rendered non-obvious to one reasonably skilled in the art.

It is also noted that even if the Patent Office is able to articulate and support a suggestion to combine the references, it is impermissible to pick and choose elements from the prior art while using the application as a template—see *In re Fine*, 837 F.3d 1071 (Fed. Cir. 1988). It is respectfully submitted that the Examiner has attempted to combine features from Derango and Grube while using the application as a template. The features from Derango and Grube as referred to by the Examiner have little or nothing to do with the present application and they simply cannot be combined in a manner that would arrive at Applicant’s claim 1.

In view of the foregoing, Applicant submits that the Examiner has not provided valid reasoning in support of an obviousness rejection. Therefore, Applicant submits that claim 1 of the present application cannot be rendered obvious under 35 U.S.C. 103(a).

Applicant submits that claims 2-6, 9-12, 27 and 28 are patentable over Derango and Grube for similar reasons provided above in respect of claim 1.

In regards to claim 13, the Examiner concedes that “Derango does not explicitly show that provide to each user device the user-device specific set of at least one provisioned talkgroup identifier upon an event other than talkgroup opt in.” Applicant agrees with the Examiner.

The Examiner refers to column 8, line 64 to column 9, line 25 of Grube as disclosure for the aforementioned subject matter. As noted above, this passage teaches how location information is obtained and displayed by subscribers, which clearly has nothing to do with the aforementioned subject matter. This passage also teaches that “In the case where the subscribers are members of a talkgroup, the de-subscription request may be embodied in a de-affiliation request for the talkgroup. Upon granting the de-subscription request(s), the GLSS controller de-registers the former subscribers and returns de-subscription acknowledgment message(s), as appropriate.” However, de-registering former subscribers also has nothing to do with Applicant’s claimed dispatch network configured to “provide to each user device the user-device specific set of at least one provisioned talkgroup identifier upon an event other than talkgroup opt in.”

Applicant’s remarks above in regards to there being no valid reasoning in support of an obviousness rejection for claim 1 similarly apply to claim 13. Therefore, Applicant submits that claim 13 of the present application cannot be rendered obvious under 35 U.S.C. 103(a).

Applicant submits that claims 14 and 15 are patentable over Derango and Grube for similar reasons provided above in respect of claim 13.

In regards to claim 20, the Examiner refers to Derango as disclosure for Applicant’s claimed method comprising “the dispatch network receiving the request [originating from the user device] and responding with a response containing a user-device specific set of at least one provisioned talk group identifier having a respective provisioned talkgroup identifier for each talkgroup provisioned for the user device”. However, as noted above for claim 1, Derango teaches a contrary signalling in column 3, lines 35-54 that serves to inform the controller of the talkgroup that has been selected. As also noted above for claim 1, Derango does not provide any

disclosure in column 5, line 6 through column 6, line 10 for a dispatch network providing talkgroup IDs to a communication unit.

In regards to claim 20, the Examiner concedes that “Derango does not explicitly show that the user device receiving the response and making the provisioned talkgroup identifiers available to a user of the user device.” Applicant agrees with the Examiner.

The Examiner refers to Grube as disclosure for the aforementioned subject matter. However, as noted above for claim 1, Grube has nothing to do with “making the provisioned talkgroup identifiers available to a user of the user device” as recited in claim 20.

Applicant’s remarks above in regards to there being no valid reasoning in support of an obviousness rejection for claim 1 similarly apply to claim 20. Therefore, Applicant submits that claim 20 of the present application cannot be rendered obvious under 35 U.S.C. 103(a).

Applicant submits that claims 21-24 are patentable over Derango and Grube for similar reasons provided above for claim 20.

The Examiner is respectfully requested to reconsider and withdraw the rejection of claims 1-6, 9-15, 20-22, 23-24 and 27-28 under 35 U.S.C. 103(a). Applicant expressly reserves the right to submit further arguments for any one or more of claims 1-6, 9-15, 20-22, 23-24 and 27-28 at a later time.

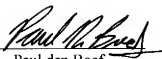
Claims 7, 8 and 16-19

The Examiner rejects claims 7, 8 and 16-19 under 35 U.S.C. 103(a) as being unpatentable over Derango in view of Grube and further in view of additional prior art. The Examiner’s rejection of these claims relies on the rejection of claims 2, 4, 14 and 15 under 35 U.S.C. 103(a). However, seeing as though the rejection of claims 2, 4, 14 and 15 should be withdrawn, the Examiner is respectfully requested to similarly reconsider and withdraw the rejection of claims 7, 8, and 16-19 under 35 U.S.C. 103(a). Applicant expressly reserves the right to submit further arguments for any one or more of claims 7, 8 and 16-19 at a later time.

Favorable consideration is requested.

Respectfully submitted,

PADAKANDLA KRISHNA RAO

By 
Paul den Boef
Reg. No. 62,415
Tel.: (613) 232-2486

Date: June 17, 2009

PDB:mcg